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## Remembering California's History in Youth Corrections

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## GGU Law Review Blog



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### Remembering California's History in Youth Corrections

California Governor Gavin Newsom's [2021-22 state budget](#) sets forth plans to permanently close the California's Division of Juvenile Justice and transition any children in the state's care to the counties who committed them. On September 30, 2020, California lawmakers passed [SB 823](#), the pillar of this transition. As the closure of the state-run juvenile correctional system marks a new journey for California's youth, the state's gloomy [history](#) in youth corrections looms overhead.

#### Youth Confinement Justified Under *Parens Patriae*

The [New York House of Refuge](#) was the first institution to house children in the United States. It was founded in 1825 by a group named the Society for the Reformation of Juvenile Delinquency (SRJD). The SRJD's [mission](#) for the House of Refuge was to rescue children and believed that "no distinction was necessary between poverty and criminality, as they were inextricably linked." As a result, the House of Refuge became home to both delinquent and impoverished children.

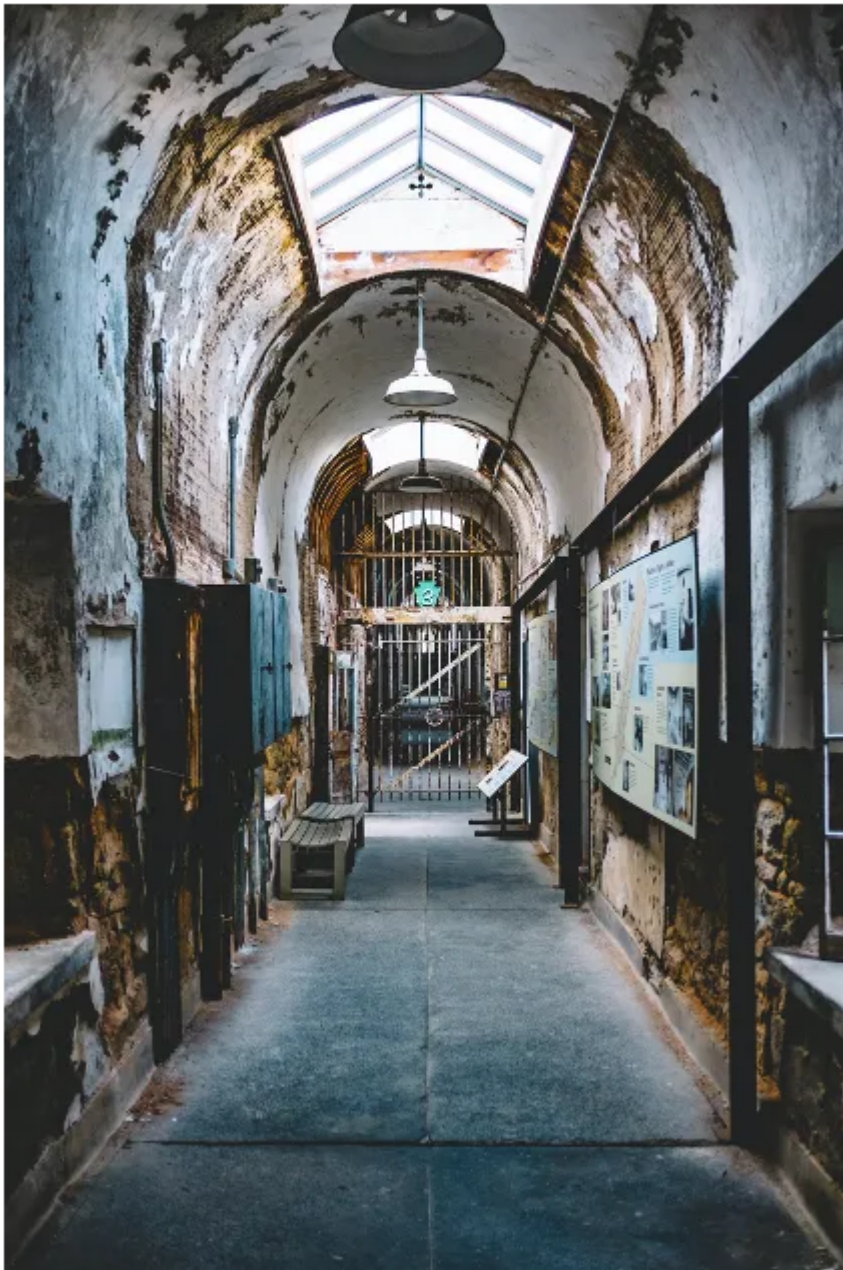


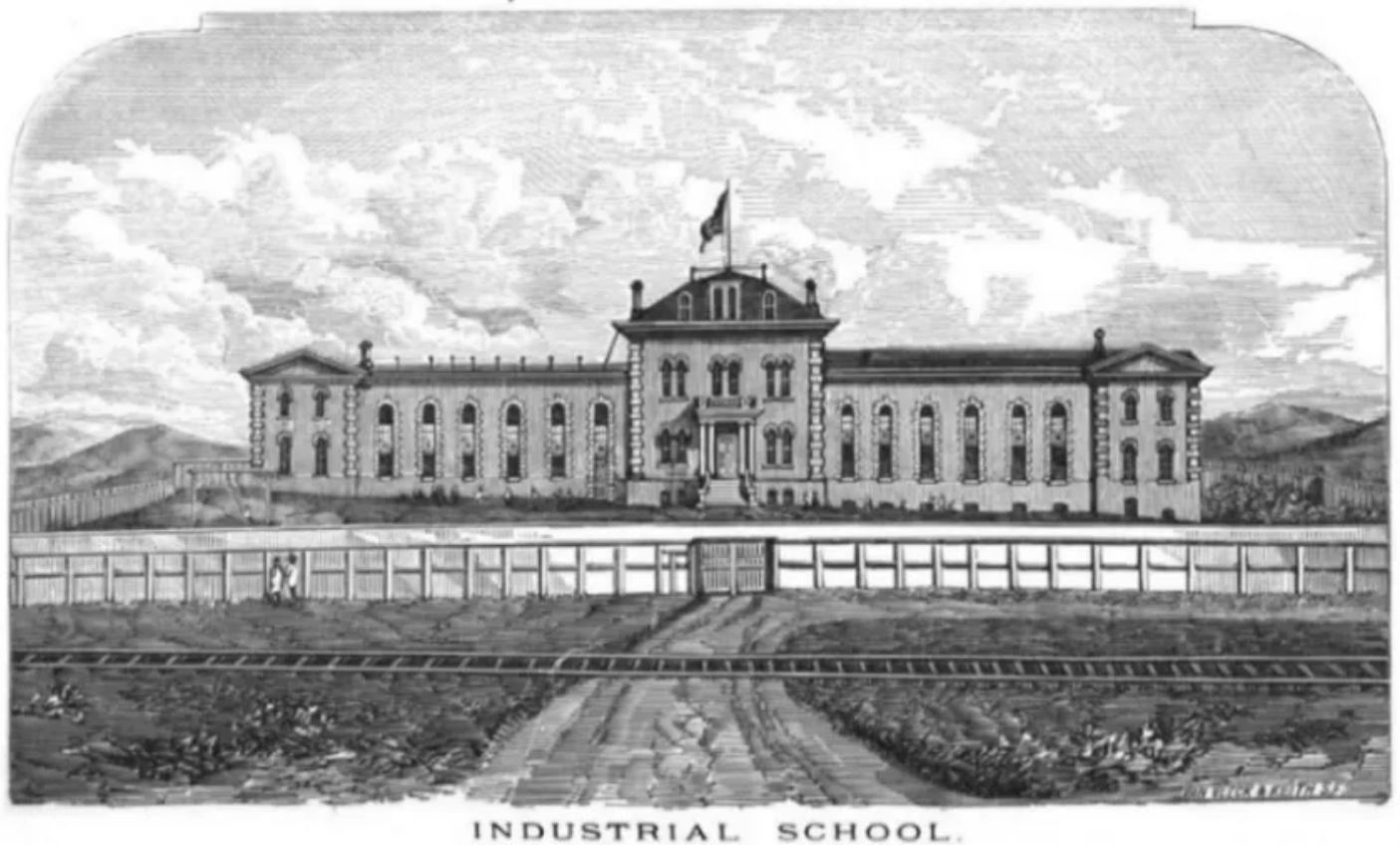
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The SRJD emphasized the use of the **penitentiary model** for the House of Refuge, meaning the committed youth would be subject to structure, discipline, and education. Similar institutions also employed the **congregate system**, in which children lived in “large fortress-like buildings” and were subjected to a “strict code of discipline and punishment.” Though benignly named “**refuges**,” denoting a sanctuary of sorts, children were committed to these institutions indeterminately and released only at the discretion of institutional managers.

Despite their likeness to the correctional system, refuges asserted that they were an **extension of public schools**. This meant that youth committed to the institutions could not claim a right to constitutional due process. Instead, refuges relied on *parens patriae* to lawfully confine children. Under the doctrine of ***parens patriae***, the state acted in the child’s best interest by substituting its own control over children for that of the parents, “when the latter appeared unable or unwilling to meet their responsibilities or when the child posed a problem for the community.”

In ***Ex parte Crouse***, the Pennsylvania Supreme Court affirmed the classification of refuges

as schools and therefore sanctioned the confinement of children under *parens patriae*. In 1838, Crouse’s daughter, Mary Ann Crouse, was being held in a house of refuge against her will. Mary Ann was not guilty of committing any crime, but was admitted to a refuge because her mother thought she was “unruly and unmanageable.” The court held that Mary Ann’s confinement was justified because, as long as she remained in the refuge, her behavior could be reformed. The court **explained**, that when natural parents are “unequal to the task of education or unworthy to it” they should be superseded by *parens patriae*, since the “public has a paramount interest in the virtue and knowledge of its members,” and “the business of education belongs to it.” In committing a child to a refuge, “[t]he infant has been snatched from a course which must have ended in confirmed depravity; and not only is the restraint of her person lawful, but it would be an act of extreme cruelty to release her from it.” Consequently, many children who were committed to a refuge, spent most of their childhood there, and *parens patriae*, used to justify this confinement, became a pillar for the early American juvenile justice system.



*The San Francisco Industrial School, Circa 1871*

## The San Francisco Industrial School

Following the Gold Rush, San Francisco looked to the refuges in New York, Pennsylvania, and Massachusetts to establish its own **youth institution**. In 1858 the California Legislature passed the Industrial School Act as an “enlightened response” to the surging number of children that wandered the streets of San Francisco. Out of this legislation grew the **San Francisco Industrial School**. The Industrial School was built in 1859 with the purpose to reform and educate children.

The design of the Industrial School, however, seemed ill-suited to fit its reformatory vision and what was once promoted as a **sanctuary** for youth in need of care, soon became a corrupt warehouse for unwanted children. The school had **prison-like** architecture, with sixteen cells on each of the three floors. The children slept in iron-framed beds and shared toilets at the end of the hall. **In the first year**, the school took in sixty boys and girls, only twelve of which had been accused of crimes, while the others were committed for **leading idle and dissolute lives**. The children were also subject to physical punishment and isolation and described as **“underfed, poorly clothed, and overworked”**.

Eventually, the troubling conditions of the Industrial School became a cataclysm for public outcry and reform. On December 21, 1882, a Sacramento newspaper published an **article** criticizing the school. The column described a San Francisco Grand Jury report vilifying the Industrial School: “the chance of reformation would be much greater outside of than within that institution, and that beyond mere confinement of [youth] no good whatever [sic] is accomplished.” History’s chapter on the Industrial School **ended** in 1892, when the school was ordered to permanently close its doors. In its place, California opened two new reformatory schools: **Whittier State School** and



the **Preston School of Industry**. The **mission** of these two schools was to provide for the “discipline, education, employment, reformation and protection” of youth.



*The Whittier Reform School, circa 1905, **opened in 1891 and closed in 2004***

Like their predecessors, however, the schools had an egregious reputation for maltreatment. Children at the Whittier State School were poked and prodded by researchers; they served as test subjects to **intelligence testing and eugenics practices**. On the other hand, a day-in-the-life at the Preston School of Industry **entailed** sexual abuse, violent assaults, and suicide attempts. These facilities and those alike set forth a predictable cycle of “**public outcry followed by failed attempts at reform.**” More than a century later, California’s youth institutions had yet to see their mission come to life: to provide schooling and rehabilitative services to children in the most need of care.

One of the early Preston wards was 16 year-old Robert Barry. On December 13, 1899, the Sacramento Daily Union reported that Robert helped his brother “loot a sleeping car of its **brasswork**” for which Robert would make his home at the School “until he becomes of age - provided he doesn’t escape.”

*Johnny García was a twelve-year-old boy who arrived at Whittier State School in 1920. Johnny was subjected to exams that determined that he was*



*Johnny García upon his arrival at Whittier State School in 1920. Photograph by Whittier State School, Whittier California. California State Archives*

“feeble-minded” and that, into adulthood, he would not develop beyond the capacity of a twelve-year-old child. School administrators believed that this was genetic, as his family had a history of “immorality” given that his mother “drank and was a prostitute” and his father was a “deserter.” Johnny was released at age sixteen because of his supposed “mental weakness and inability to reform.”

### **Attempts to Reform: The *Farell* Litigation**

In 2003, the Prison Law Office instituted a suit against California’s Division of Juvenile Justice alleging that “youth in the state juvenile facilities were subjected to illegal conditions of confinement in segregation; inadequate access to education; and drastically inadequate exercise opportunities, physical facilities, and programming and rehabilitation.”

The lawsuit, coined the *Farell* litigation, spanned nearly 15-years and detailed the harrowing conditions of the facilities. The Preston School of Industry was described as deplorable and dudgeon-like. Youth were confined for 23-hours a day in “filthy, dank rooms coved with vermin, blood, and feces” and would spend one hour a day shackled in a cage for exercise. In 2004, California conceded to the allegations and signed a consent decree, agreeing to create and implement remedial plans that would reform the facilities’ “education, medical and mental health care, safety and welfare, disabilities, and sexual behavior treatment.” Yet, despite their best efforts, violence raged on and rehabilitation was nowhere in sight.



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## SB-823 – A Legislative Cornerstone to New Youth Justice

California's history illustrates that placing youth in prison-like facilities is, by nature, impervious to reform. Rather, as the evidence suggests, youth experience better outcomes when they remain connected to their families and communities. When youth who enter the justice system are served by their communities, recidivism rates decrease and youth are more adequately prepared to rejoin their communities upon release.

Accordingly, California lawmakers enacted **SB-823** to halt California's more than **100-year tradition** of incarcerating California's youngest offenders at remote, overpopulated, and prison-like facilities. The legislation **ordered the closure** of the California Division of Juvenile Justice, and the care of justice-involved youth transferred to local counties, ensuring youth are close to their families and communities to support their rehabilitation.

The juvenile justice system will no longer be a part of the California's Department of Corrections and Rehabilitation, but instead will be housed under the California Health and Human Services Agency as the Department of Youth and Community Restoration. As a part of Health and Human Services, the new Department of Youth and Community Restoration will be free from the constraints in leadership and operational models of the adult correctional system. The move will assure new county-run facilities take greater consideration of youth development and health-based approaches to intervention.

Of the original eleven juvenile facilities run by the state, only three remain: two in Stockton and a third in Ventura. However, under Governor Newsom's 2021-22 state budget, the California Division of Juvenile Justice will begin the transition to the new Department of Youth and Community Restoration. By June 30, 2021, history will permanently close its doors on California's state-run juvenile justice system.

While the closure of California's state-run juvenile correctional system marks a crucial step towards reform and hope for California's youth, the change must not be in name only. To ensure that the California's Division of Juvenile Justice is not substituted by equally horrific treatment of youth, merely at the county level, communities must develop the new system with an eye to California's history, so that it does not repeat itself.



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